

April 18, 2006 CPC



STAFF'S
REQUEST ANALYSIS
AND
RECOMMENDATION

06PW0310

James H. and Donna Archer
(Archer's Garage)

Matoaca Magisterial District
North line of Hickory Road

REQUEST: Waiver of Development Standards.

The applicants are requesting Planning Commission approval of a modification to the development standard requiring perimeter landscaping along the east property line. Specifically, the applicants are asking to use a decorative fence in lieu of landscaping.

Specific language of Section 19-585.2 (a) is included in the background section of this report that lists the requirements for Perimeter Landscaping B.

RECOMMENDATION

Staff recommends approval of the request with one (1) condition for the following reasons:

1. It is staff's belief that the reasons presented by the applicant adequately address the five (5) factors required to be considered by the Planning Commission in its determination of waivers of development standards.
2. The condition requiring shade trees with the fence will allow the general intent of the Zoning Ordinance to be met.

CONDITION

Large maturing shade trees shall be installed along the east property line in conjunction with the decorative fence. Trees shall be installed at forty (40) feet on center at the size allowed by Ordinance, and the fence will have a minimum height of three (3) feet. (P)

GENERAL INFORMATION

Associated Public Hearing Case:

02SN0288 – James M. Archer

Developer:

James H. and Donna Archer

Location:

Fronts approximately 270 feet on north line of Hickory Road. Tax ID 764-625-Part of 7271 (Sheet 40).

Existing Zoning and Land Use:

C-5 with Conditional Use Planned Development; Convenience Store and Auto Repair

Size:

Part of a 7.1 acre parcel

Adjacent Zoning and Land Use:

North, South, East and West – A; Single family residential or vacant

BACKGROUND

Section 19-518 (g)(2) Perimeter Landscaping B (Option I) requires one (1) large maturing and one (1) small maturing deciduous tree for each fifty (50) lineal feet; one (1) evergreen tree for each thirty (30) lineal feet; one (1) medium shrub for each fifteen (15) lineal feet; and low shrubs and groundcovers to supplement tree and shrub beds.

The applicants wish to extend a proposed fence with street trees across the front of the Archer's facility on Hickory Road. In an effort to stop trucks from driving over the eastern curb line of the parking lot, the fence in the front will be extended up the side yard to the building. The zoning Case 02SN0288, granted the applicants a reduction in the side yard from thirty (30) feet down to

ten (10) feet. Staff believes the addition of large maturing shade trees in this ten (10) foot wide side yard will provide a reasonable transition in this rural setting.

CONCLUSIONS

Staff recommends approval of the request with one (1) condition because the reasons presented by the applicant adequately address the five (5) factors required to be considered by the Planning Commission in its determination of waivers of development standards, and because staff believes the request addresses the client's needs for limiting vehicular access and meets the general intent of the Ordinance.

AN ORDINANCE TO AMEND THE CODE OF THE COUNTY
OF CHESTERFIELD, 1978, AS AMENDED, BY AMENDING
AND REENACTING SECTION 19-19 RELATING TO
MODIFICATIONS TO DEVELOPMENT STANDARDS AND REQUIREMENTS

BE IT ORDAINED by the Board of Supervisors of Chesterfield County:

- (1) *That Section 19-19 of the Code of the County of Chesterfield, 1978, as amended, is amended and reenacted to read as follows:*

Sec. 19-19. Planning commission may grant modifications to development standards and requirements.

(a) Except for those development standards or requirements which must be modified by the granting of a variance, special exception, conditional use or a rezoning, the planning commission may grant modifications, with or without conditions, to development standards or requirements specified in this chapter. The planning commission shall fix a reasonable time for the hearing of an application under this section and decide the same within 60 days after its first hearing on the matter, unless the applicant requests or consents to action beyond such time or unless the applicant withdraws the request.

(b) No modification to a development standard or requirement shall be authorized by the planning commission unless it considers and determines substantial compliance with all of the following factors:

- (1) By reason of the exceptional narrowness, shallowness, size or shape of the specific piece of property or nearby properties or by reason of exceptional topographic conditions or other exceptional situation or condition relating to such properties the strict application of the terms of this chapter would effectively prohibit or unreasonably restrict the use of the property.
- (2) The granting of the modification will alleviate a clearly demonstrable hardship as distinguished from a special privilege or convenience, and the hardship is not shared generally by other properties in the same zoning district and the same vicinity.
- (3) The modification will not be injurious to the use and enjoyment of adjacent property owners; will not diminish or impair property values within the neighborhood; will not change the character of the district; and will not be detrimental to or endanger the public health, safety or general welfare.
- (4) The condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this chapter.

- (5) The granting of such modification will allow the project to comply with the comprehensive plan.

(c) In authorizing a modification, the planning commission may impose conditions regarding the location, character and other features of the proposed building, structure or use as it may deem necessary to the public interest; and it may require a guarantee or bond to remain in effect until compliance with such conditions has occurred.

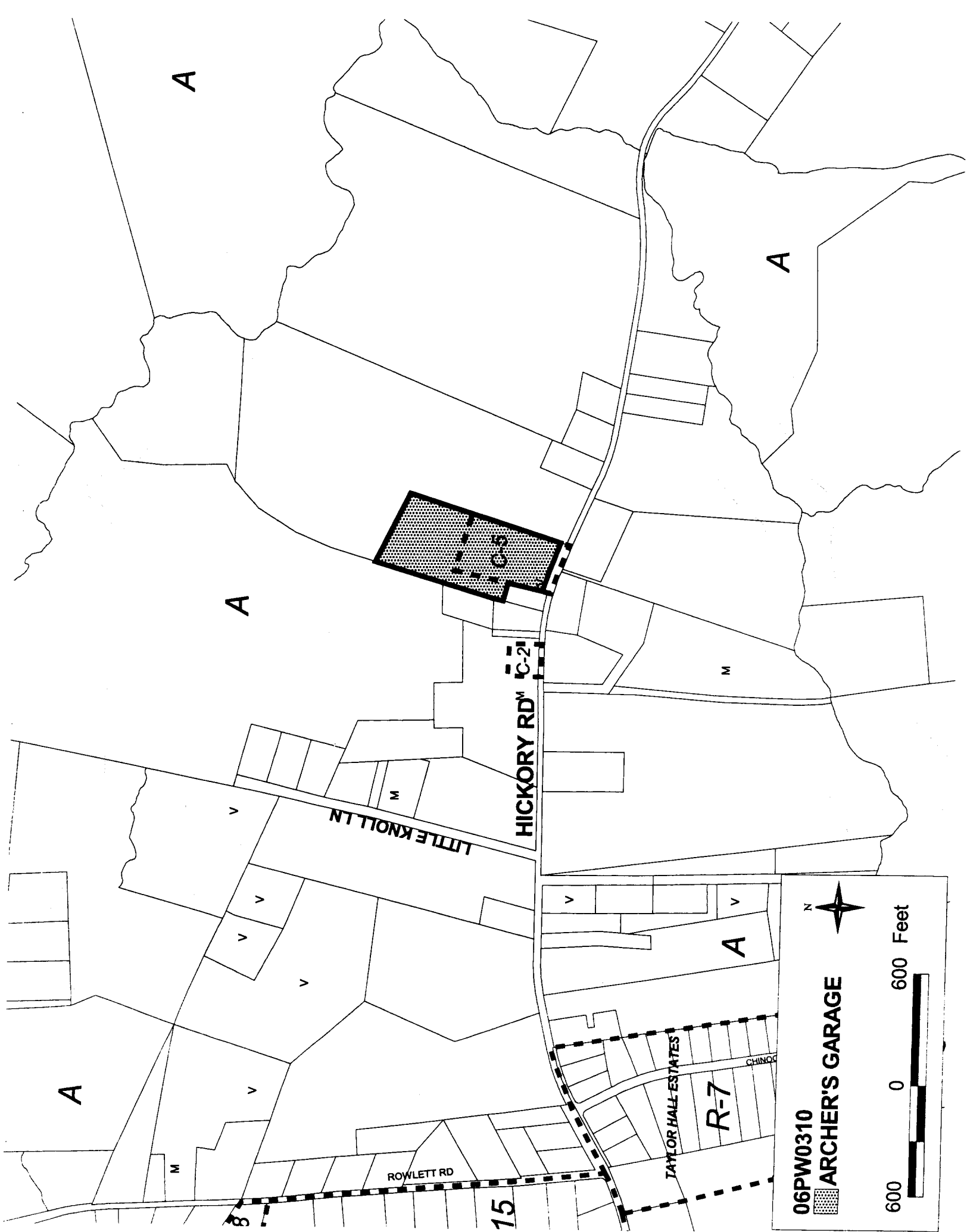
(d) The planning commission shall not grant more than the minimum necessary modification to the appropriate development standard or requirement to resolve the hardship. The planning commission shall not grant a permanent modification to a standard or requirement if a temporary modification will suffice. A temporary modification may be granted if the planning commission determines that permanent compliance will be obtained in a future phase of development.

(e) The planning commission shall not grant a modification to any development standard or requirement if:

- (1) The granting of the modification will constitute the granting of a variance, special exception, conditional use or a rezoning.
- (2) Ordinary financial considerations are the principal reason for the requested modification.
- (3) The modification amends a property-specific condition imposed by the board of supervisors or the board of zoning appeals, unless such condition specifically grants such modification authority to the planning commission.
- (4) The applicant created the condition or situation generating the need for the modification and the applicant has not exhausted all other practicable solutions to the problem, including, but not limited to, the acquisition of additional property, the elimination or redesign of structures, or the reduction of development density.

(f) If the applicant disagrees with the planning commission's final decision, he may file a written appeal with the circuit court within 60 days of that decision. In addition, adjacent property owners may appeal the planning commission's final decision by filing a written appeal with the circuit court within 60 days of that decision. Adjacent property owners' appeals shall be limited to conditions which directly affect the property owners and include access, utility locations, buffers, conditions of zoning, architectural treatment and land use transitions. The court shall fix a reasonable time for hearing the appeal. During the appeal, the director of planning shall not approve any applicable site plan, building permit or record plat for any construction that would or could be affected by the appeal.

(Code 1978, § 21.1-12.1; Ord of 6-12-96, § 1)



06PW0310

 ARCHER'S GARAGE



